

#100015

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: DIET DRUG
(Phentermine/Fenfluramine/
Dexfenfluramine)
PRODUCT LIABILITY LITIGATION

FILED

MDL DOCKET NO. 1203

MAR 13 1998

ALL CASES

MICHAEL E. KUNZ, Clerk

By _____ Dep. Clerk

PRETRIAL ORDER NO. 16

GUIDELINES FOR DIET DRUG MDL 1203 PLAINTIFFS' COUNSEL
COMMON BENEFIT TIME AND EXPENSE REPORTING

In accordance with the provisions set forth in the Report of the Plaintiffs' Management Committee Submitted in Compliance with Pretrial Order No. 6, the Court is in agreement with the following guidelines:

A. The PMC recognizes that common benefit expense items reported must be reasonable and necessary for the collective prosecution of this case and must be for the benefit of the PMC and plaintiffs as a whole and not for individual clients. The Guidelines for Common Expense Reporting set forth herein have been developed with these principles in mind. The PMC hereby adopts the following guidelines:

B. REPORTING GUIDELINES:

1. RECEIPTS:

Each expense claimed must be properly documented by a receipt or some other form of proof of payment. Receipts do not need to be

submitted on a monthly basis, but must be available for production upon request. Cash advances will not be considered for reimbursement without evidence of payments made with the cash.

2. MISCELLANEOUS CASH EXPENSES:

Miscellaneous cash expenses for which receipts generally are not available (tips, luggage handling, pay telephone, etc.), will be allowed up to a maximum of \$50.00 per trip, providing those expenses are properly itemized.

3. AIRFARE:

First class airfare will not be fully reimbursed. If first class travel is selected, the difference between coach rate and first class rate must be shown on the expense claim, and only the coach airfare shall be claimed.

4. HOTELS:

Luxury accommodations will not be fully reimbursed. If luxury hotels and suites are selected, the regular room rate must be indicated on the expense claim and only the regular room rate will be claimed. Charges for movies, laundry, toiletries or liquor will not be reimbursed.

5. MEALS:

A copy of the restaurant receipt must be submitted. Charges for alcoholic beverages will not be reimbursed.

6. RENTAL AUTOMOBILES:

Luxury automobile rentals will not be fully reimbursed, unless satisfactory evidence is submitted that only luxury automobiles were available. If luxury automobiles are selected, where ordinary

vehicles are available, the difference between the luxury and ordinary vehicle rates must be indicated on the expense claim and only the ordinary vehicle rate will be claimed.

7. MILEAGE:

Mileage claims must be documented by stating origination point, destination, total actual miles for each trip, and the rate per mile paid by the individual's firm. The maximum allowable rate is 30¢ per mile (which is the current allowable rate set by the I.R.S.).

8. LONG DISTANCE:

Long distance telephone expenses must be documented. Copies of telephone bills must be submitted with notation as to which charges are related to MDL No. 1203. Only actual charges are reimbursable.

9. FEDERAL EXPRESS, LOCAL COURIER SERVICE,
OR OTHER COURIER:

All claimed expenses must be documented with bills showing the sender, origin of the package, recipient and destination of the package.

10. POSTAGE CHARGES:

A contemporaneous postage log or other supporting documentation must be maintained and submitted. Postage charges are to be reported at actual cost.

11. TELEFAX CHARGES:

Contemporaneous records should be maintained and submitted showing faxes sent and received. The per-fax charge should be \$1.00 per page.

12. IN-HOUSE PHOTOCOPY:

A contemporaneous photocopy log or other supporting documentation must be maintained and submitted. The maximum copy charge is 25¢ per page.

13. SECRETARIAL AND CLERICAL OVERTIME:

An itemized description of the task and time spent must be submitted for secretarial and clerical time. All such overtime for secretarial and clerical assistance shall be approved by PMC members or the employee's supervising attorney, who shall review and approve such overtime prior to submission.

14. LEXIS/WESTLAW:

Claims for expenses relating to computerized legal research, i.e. LEXIS or WESTLAW, should be in the exact amount charged to your firm for these research services.

15. DEPOSITION COSTS, EXPERT WITNESS FEES,
AND EXHIBIT COSTS:

Fees and costs associated with pretrial discovery that are authorized by the PMC will generally be paid directly by the PMC. No party will be reimbursed for obtaining his or her own personal copy of a deposition transcript.

16. EQUIPMENT PURCHASES:

Purchases of equipment are not to be claimed, absent special circumstances approved by the PMC. Laptop computers purchased for and utilized by the individual attorneys and their staff, even if used primarily for this case, are not reimbursable.

17. MONETARY SANCTIONS:

No monetary sanction levied by the Court on any PMC member shall be reported as an expense.

C. EXCEPTIONS:

The only exceptions to these guidelines shall be as specifically approved by the PMC. (E.g., payment of transportation and lodging in connection with expert witness consultation or depositions subject to approval of the PMC or its authorized designee.)

D. The procedures set forth herein will apply to PMC members and those to whom the PMC has assigned a specific case related task.

E. Each attorney submitting a time and expense statement shall be considered as representing to the Court, under oath, that the time and expense submitted meets the criteria set forth herein.

F. PMC AUTHORIZATION FORMS:

In order to avoid unnecessary or duplicative work, PMC members will be required to submit a "PMC Authorization Form" signed by the Chairpersons for any person not an employee of a PMC member's firm who undertakes to perform common benefit work on behalf of the PMC. Common benefit work may be assigned to counsel of record in any state or federal action.

IT IS ORDERED that you must fully comply with the provisions set forth above in order to be compensated for any and all time and expense submissions. The forms which are attached hereto as "Exhibit A" must be used when submitting your time and expenses. Non-compliance with this Order will result in a denial of same.

SO ORDERED this 13th day of March 1998.


LOUIS C. BECHTLE, J.